

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[CGD01-06-006]

RIN 1625-AA09

**Drawbridge Operation Regulations; Jamaica Bay and Connecting Waterways, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to temporarily change the drawbridge operating regulations governing the operation of the New York City Highway Bridge (Belt Parkway), at mile 0.8, across Mill Basin. This notice of proposed rulemaking would allow the bridge owner to open only one of the two moveable spans for the passage of vessel traffic from March 1, 2006 through September 7, 2006. This proposed rule is necessary to facilitate bridge deck replacement.

**DATES:** Comments must reach the Coast Guard on or before March 1, 2006.

**ADDRESSES:** You may mail comments to Commander (dpb), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668-7165. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. July Leung-Yee, Project Officer, First Coast Guard District, (212) 668-7195.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-06-006), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound

format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached, us please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

We anticipate making this rule effective in less than 30 days after publication in the **Federal Register** to allow for the rehabilitation work to commence in time for the March 1, 2006, deck replacement construction start date. The deck replacement of the New York City Highway (Belt Parkway) Bridge is vital, necessary work that must be performed without delay as a result of deterioration of the existing bridge deck which could fail if not replaced with all due speed. In order to assure the continued safe and reliable operation of the bridge construction work should begin as scheduled on March 1, 2006. However, the Coast Guard desires to allow as much time as possible for public participation in the rulemaking process. Thus, we are allowing the comment period to run into the 30-day time period normally included between publication and the effective date.

**Public Meeting**

We do not now plan to hold a public meeting but you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

The New York City Highway Bridge (Belt Parkway) has a vertical clearance of 34 feet at mean high water and 39 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.795(b).

The owner of the bridge, New York City Department of Transportation (NYCDOT), requested a temporary change to the drawbridge operation regulations to facilitate the replacement of the bridge roadway deck.

This rulemaking is necessary because during the prosecution of this rehabilitation construction, the opening span that is undergoing deck replacement cannot open for vessel traffic. As a result, the bridge owner requested that only one of the two opening spans need open for the

passage of vessel traffic from March 1, 2006 through September 7, 2006.

**Discussion of Proposed Rule**

This proposed change would amend 33 CFR 117.795 by suspending paragraph (b), which lists the New York City Highway Bridge (Belt Parkway), and add a temporary paragraph (d) to allow single span bridge openings from March 1, 2006 through September 7, 2006.

The horizontal clearance at the bridge is 135 feet with both spans opened and 67.5 feet with a single span open.

The Coast Guard believes this proposed rule is reasonable because the recreational vessel traffic that normally transits this bridge can safely pass through the bridge with a single span opening of 67.5 feet of horizontal clearance.

*Regulatory Evaluation*

This proposed rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under the regulatory policies and procedures of DHS is unnecessary.

This conclusion is based on the fact that the vessel traffic that normally transits this bridge should not be precluded from transiting due to single span bridge openings.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This notice of proposed rulemaking would not have a significant economic impact on a substantial number of small

entities for the following reason: Mill Basin is navigated predominantly by recreational vessels.

The single span bridge openings should not preclude vessel traffic from transiting the bridge because the recreational vessels that normally use this waterway should be able to transit through the bridge with the reduced horizontal clearance of 67.5 feet due to their relative small size.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact us in writing at, Commander (dpb), First Coast Guard District, Bridge Branch, One South Street, New York, NY 10004. The telephone number is (212) 668–7165. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### **Collection of Information**

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

#### **Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the

aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### **Civil Justice Reform**

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### **Protection of Children**

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### **Indian Tribal Governments**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### **Energy Effects**

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### **Technical Standards**

The National Technology Transfer and Advancement Act (NTTAA) (15

U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### **Environment**

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environment documentation because this action relates to the promulgation of operating regulations or procedures for drawbridges.

Under figure 2–1, paragraph (32)(e) of the instruction, an “Environmental Analysis Checklist” is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

#### **List of Subjects in 33 CFR Part 117**

Bridges.

#### **Regulations**

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

#### **PART 117—DRAWBRIDGE OPERATION REGULATIONS**

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From March 1, 2006 through September 7, 2006, § 117.795 is

amended by suspending paragraph (b) and adding a temporary paragraph (d) to read as follows:

**§ 117.795 Jamaica Bay and Connecting Waterways.**

\* \* \* \* \*

(d) The New York City Highway Bridge (Belt Parkway), mile 0.8, across Mill Basin, need only open one moveable span for the passage of vessel traffic from March 1, 2006 through September 7, 2006. The draw need not be opened for the passage of vessel traffic from 12 p.m. to 9 p.m. on Sundays from May 15 through September 30, and on Memorial Day, Independence Day, and Labor Day. However, on these days the draw shall open on signal from the time two hours before to one hour after the predicted high tide(s). For the purpose of this section, predicted high tide(s) occur 15 minutes later than that predicted for Sandy Hook, as documented in the tidal current data, which is updated, generated and published by the National Oceanic and Atmospheric Administration/National Ocean Service.

Dated: January 22, 2006.

**David P. Pekoske,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 06-855 Filed 1-25-06; 4:03 pm]

BILLING CODE 4910-15-M

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 16 and 39**

[**FAR Case 2003-008**]

**RIN 9000-AJ74; Docket 2006-0015**

**Federal Acquisition Regulation; FAR Case 2003-008, Share-in-Savings Contracting**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed to withdraw the proposed rule, FAR case 2003-008, Share-in-Savings Contracting, which was published in the **Federal Register** on July 2, 2004. The rule proposed amending the Federal Acquisition

Regulation (FAR) as it pertains to types of contracts and acquisition of information technology to address the inclusion of Share-in-Savings (SIS) contracting. However, the SIS concept was not reauthorized by Congress.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Mr. Kenneth Buck at (202) 219-0311. Please cite FAR case 2003-008. For information pertaining to status or publication schedules, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755.

Dated: January 24, 2006.

**Gerald Zaffos,**

*Director, Contract Policy Division.*

[FR Doc. 06-816 Filed 1-27-06; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 575**

[**Docket No. NHTSA-2005-23216**]

**RIN 2127-AJ76**

**New Car Assessment Program (NCAP); Safety Labeling**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** One of the provisions of the recently enacted Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requires new passenger vehicles to be labeled with safety rating information published by the National Highway Traffic Safety Administration's New Car Assessment Program. This document proposes a regulation to implement that new labeling requirement beginning September 1, 2007.

**DATES:** You should submit your comments early enough to ensure that Docket Management receives them not later than March 31, 2006.

**ADDRESSES:** Comments should refer to the docket number and be submitted by any of the following methods:

- Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site. Please note, if you are submitting petitions electronically as a PDF (Adobe) file, we ask that the documents

submitted be scanned using an Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**Instructions:** All submissions must include the agency name and docket number. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Comment heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided.

**Privacy Act:** Anyone is able to search the electronic form of all petitions received into any of our dockets by the name of the individual submitting the petition (or signing the petition, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For technical issues regarding the information in this document, please contact Mr. Nathaniel Beuse at (202) 366-1740. For legal issues, please contact Ms. Dorothy Nakama (202) 366-2992. Both of these individuals may be reached by mail at the National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

**I. Overview**

Section 10307 of the recently enacted Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59 (August 10, 2005; 119 Stat. 1144), requires new passenger vehicles to be labeled with the National Highway Traffic Safety Administration's (NHTSA) New Car Assessment Program (NCAP) ratings. The Act specifies a number of detailed requirements for the label, including content, format, and